

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

JOHN T. GRESHAM REVOCABLE	)	
TRUST, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. CIV-14-239-D
	)	
STATE AUTO PROPERTY AND	)	
CASUALTY COMPANY,	)	
	)	
Defendant.	)	

**ORDER**

Upon review of the Notice of Removal, the Court finds insufficient factual allegations to support the assertion of federal subject matter jurisdiction under 28 U.S.C. § 1332.<sup>1</sup> Two plaintiffs are named in the state court petition: a corporation, JMAR Carpet Distributors, Inc.; and a trust, John T. Gresham Revocable Trust, which is alleged to be the legal owner of the insured real estate properties. The Notice of Removal and Plaintiffs’ petition allege facts to establish the citizenship of the corporation under 28 U.S.C. § 1332(c)(1), but the pleadings are silent regarding the citizenship of the trust. A trust may assume the citizenship of its trustee in the diversity analysis, “at least when no party demonstrates the trustee does not possess the customary powers to hold, manage, and dispose of assets for the benefit of others.” *See Ravenswood Inv. Co., L.P. v. Avalon Correctional Servs.*, 651 F.3d 1219, 1222 n. (10th Cir. 2011) (internal quotation omitted). The Notice of Removal fails to identify the trustee of the plaintiff trust, and provides no information

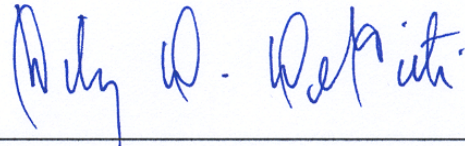
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<sup>1</sup> The Court has “an independent obligation to determine whether subject-matter jurisdiction exists” and may raise the issue *sua sponte* at any time. *Image Software, Inc. v. Reynolds & Reynolds Co.*, 459 F.3d 1044, 1048 (10th Cir. 2006).

concerning the trustee's citizenship. Therefore, the Notice of Removal fails to allege the citizenship of this plaintiff, and fails to demonstrate complete diversity of citizenship.

IT IS THEREFORE ORDERED that Defendant shall file an amended notice of removal to allege the existence of diversity jurisdiction not later than March 31, 2014.<sup>2</sup>

IT IS SO ORDERED this 14<sup>th</sup> day of March, 2014.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> Defendant need not re-file the exhibits attached to the Notice of Removal but may incorporate them by reference pursuant to Fed. R. Civ. P. 10(c).